

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KAREN ANN MUNGER,

Plaintiff,

Case No. 17-13021

v.

HON. GEORGE CARAM STEEH

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

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ORDER ACCEPTING REPORT AND RECOMMENDATION (Doc. 23)

On July 31, 2018, Magistrate Judge Mona K. Majzoub issued a report and recommendation in this social security action, proposing that the court grant Defendant's motion for summary judgment and deny Plaintiff's motion for summary judgment. The court granted Plaintiff an extension of time to file objections, which Plaintiff did on August 21, 2018. Defendant submitted a response on September 4, 2018.

With respect to reports and recommendations from magistrate judges, this court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C). The court "may accept, reject or modify, in whole or in part, the findings or recommendations made by the

magistrate.” *Id.*

When reviewing a case under the Social Security Act, the district court may affirm, modify, or reverse the Commissioner’s decision, with or without remand. See 42 U.S.C. § 405(g). The court “must affirm the Commissioner’s decision if it ‘is supported by substantial evidence and was made pursuant to proper legal standards.’” *Rabbers v. Comm’r of Soc. Sec.*, 582 F.3d 647, 651 (6th Cir. 2009) (citation omitted).

Plaintiff Karen Ann Munger challenges the calculation of her Social Security retirement benefits, contending that the Social Security Administration (“SSA”) provided an incorrect calculation of her benefits in response to her inquiry. In reliance upon the information she received from the SSA, Munger remarried, which affected the amount of benefits to which she was entitled. The correct calculation proved to be less than Munger was told it would be. Munger challenged the calculation and sought the higher amount based upon an equitable estoppel theory. The ALJ determined that although Munger was initially provided with an incorrect calculation, “alleged misinformation does not overrule the Code of Federal Regulation.” Doc. 23 at 3.

The magistrate judge recommends that the court affirm the Commissioner’s decision, based upon the general principle that “equitable estoppel may not be used against the government by a claimant seeking

public funds, that payments from the Federal Treasury are limited to those authorized by statute, and that erroneous advice from a government employee will not give rise to the use of estoppel to effect payments contrary to law.” *United States v. Guy*, 978 F.2d 934, 938 n.5 (6th Cir. 1992) (citing *Office of Personnel Mgmt. v. Richmond*, 496 U.S. 414 (1990)).

Having reviewed the record and applicable case law, this court agrees with the magistrate judge’s analysis and recommendation.

Therefore, IT IS HEREBY ORDERED that Magistrate Judge Majzoub’s July 31, 2018 report and recommendation (Doc. 23) is ACCEPTED.

IT IS FURTHER ORDERED that Plaintiff’s motion for summary judgment (Doc. 18) is DENIED and Defendant’s motion for summary judgment (Doc. 20) is GRANTED.

Dated: November 14, 2018

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on November 14, 2018, by electronic and/or ordinary mail and also on Karen Ann Munger, 407 Sam St., Midland, MI 48642.

s/Barbara Radke
Deputy Clerk